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International Court of Justice

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Official transcript of the International Military Tribunal in the Matter of the United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering et al, defendants, sitting at Nuernberg, Germany, on 8 May, 1946, 0930-1300, Lord Justice Lawrence presiding.

THE MARSHALL: May it please the Tribunal; the report is made that Defendant Schirach is absent.

DR. KRANZBUEHLER: Mr. President, with the permission of the Tribunal, I shall now take my position on the documents to which reference has been made by the prosecution.

Before I refer to the individual documents, I should like to say two things concerning the groups; First, I ask the Tribunal to recall that in general questions I am also counsel for Raeder. I have already mentioned, at the occasion of my first applications for documents, that I cannot separate all the charges against Doenitz and Raeder; and I agreed with Dr. Siemers that I should like to treat these charges together.

I ask the Tribunal to take this into consideration when I am dealing with documents.

Second, a large number of contradictions and objections which the prosecution has made is directed against the fact that the war measures of the Allies are mentioned in the documents. I believe that especially in this field I have been completely misunderstood. It is not my intention to criticize any war measures, and I shall demonstrate in detail later that the documents mentioned do not serve that purpose.

But I should like to state from the beginning that I want to show with these documents what naval warfare was really like. I could not demonstrate this only be showing the German methods and practices, but I have to submit to this Tribunal also the methods of the Allies in order to prove that the German practices which are like the Allies' were legal, and the Tribunal even has recognized this to be correct by approving the use of British Admiralty orders and an interrogatory of Admiral Nimitz.

I am very grateful that these documents were approved; and my own documents are along the same line.

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I shall now refer to the individual documents against which objections have been raised, first to the document Doenitz-5, which is in Document Book 1.

THE PRESIDENT: Dr. Kranzbuehler, the Tribunal has examined all these documents; so I think you can deal with them as far as possible in groups.

DR. KRANZBUEHLER: Very well.

THE PRESIDENT: If possible, you should follow the order of Sir David Maxwell-Fyfe.

DR. KRANZBUEHLER: Mr. President, itwould not be possible for me to follow the order of Sir David Maxwell-Fyfe, because then again and again I should have to return to deal with the same thing which I have already mentioned. I believe it will facilitate the proceedings if I form groups according to my order of presentation; and I should like to remind the Tribunal that that was approved for me yesterday.

THE PRESIDENT: Dr. Kranzbuehler, it would be very much more convenient to the Tribunal, if you followed the order in the groups. But if youfind that impossible, the Tribunal would not make it a matter of order.

DR. KRANZBUEHLER: I should be very grateful, Mr. President, if I could keep the order in which I intended to present them. In part, it is the same as the order that Sir David Maxwell-Fyfe suggested.

THE PRESIDENT: Very well.

DR. KRANZBUEHLER: Concerning the problem of aggressive war, I have to submit another document which is Doenitz - 5. It is an excerpt from the document of German policies, and concerns the question of bases in Norway. I consider this document relevant because it shows that on the part of the British Admiralty an interrogatory has been prepared about the question of the necessity of a German base, which is quite according to the one which the prosecution has submitted in document G B 83 as proof against Admiral Doenitz, and proof for preparation of aggressive war.

Thereby I wish to say that the answers on such interrogatories have nothing to do with any consideration concerning an aggressive war, which a subordinate office could not even make. The document is in Group 2 of Sir David' classification.

THE PRESIDENT: Are you saying that the footnote stems on the same footing

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as the other part of the documents?

DR. KRANZBUEHLER: The footnote is the essential part for me. I had the other part copied only to keep the connection with the footnote.

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THE PRESIDENT: Well, who wrote the footnote? Doesn't the footnote represent information which was not before the German Admiralty at the time?

DR. KRANZBUEHLER: No, no.

THE PRESIDENT: Well, does the footnote state that it was before the German Admiralty at the time?

DR. KRANZBUEHLER: No, Mr. President. The footnote was not known to the German Admiralty at the time?

THE PRESIDENT: That is what I said; the footnote was not known to the German Admiralty.

DR. KRANZBUEHLER: No, it was not known.

THE PRESIDENT: Who wrote it?

DR. KRANZBUEHLER: Please?

THE PRESIDENT: Who wrote the footnote?

DR. KRANZBUEHLER: The footnote is part of that document which can be found in the collection of documents of German politics, Dokumente der Deutschen Politik.

THE PRESIDENT: Is the defendant Ribbentrop the author of it?

DR. KRANZBUEHLER: No, Mr. President. The documents of German politics are in an official collection, and the footnotes have been written by the editor of that collection on the basis of official material.

THE PRESIDENT: I see.

DR. KRANZBUEHLER: Now I come to the documents concerning naval warfare in general. A large part of those are in Sir David's Group 3.

The first document is Doenitz-60, on page 152. It concerns an American note of the 6th of October, 1939, and is in connection with the document Doenitz-61, which has not been objected to by the prosecution. It is in Volume 3 of the document book, Mr. President, at page 152.

THE PRESIDENT: Yes.

DR. KRANZBUEHLER: This document is an American reply to the document which you will find two pages before this, at page 150. Both documents deal with the warning of neutral nations against suspicious actions concerning their merchant marine.

The question is relevant concerning document GB-193 of the prosecution

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In this document a charge is made against an order that ships which act suspiciously -- that is, proceed without lights -- should be sunk.

The next document is from Sir David's Group 1, Doenitz 69, on page 170, in book 3. It is an excerpt from several copies of the Voelkischer Beobachter of November and December 1939. There are published lists of armed British and French passenger ships. This document also is in connection with the preceding document and the next one. All these documents deal with the question of treatment of passenger ships by the Naval Warfare Command.

THE PRESIDENT: I think you had better give the numbers of the documents You mentioned the next document and the one before it. I think you had better give the numbers of the documents.

DR. KRANZBUEHLER: Yes, sir. That was document 69, Mr. President, Doenitz-69, and it is on page 170, in book number 3.

THE PRESIDENT: Yes, I know it is, but you said something about documents that were akin, or some words to that effect, to the documents next to it.

DR. KRANZBUEHLER: Yes. It is in relation to Doenitz-68, on page 169 of the document book.

THE PRESIDENT: Was that objected to?

DR. KRANZBUEHLER: No, that was not objected to.

THE PRESIDENT: Very well, then, you needn't bother with it.

DR. KRANZBUEHLER: I only wanted to show, Mr. President, that this document which was objected to is only part of the proof about treatment of passenger ships, and it shows that the German press had warned against the using of armed passenger ships.

The next documents objected to by the prosecution concern Group 3, the contraband and control system.

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These are the documents Doenitz-60, from page 173 to page 197 of the document book, and I should like to form three groups of these.

The first group, from page 173 to page 181, concerns the question of contraband. I consider this question relevant because document GB-191 has stated that the German U-boats sunk a large number of allied ships while these ships were on a legal merchant trip; and the development of rules against contraband will show the Tribunal that from 12 December 1939 on, a legal import to England did not exist, but actually only contraband.

These documents concerning contraband are essential, furthermore, for the German point of view, which became known under the slogan of "hunger blockade", and which played an important part in all German deliberations about the nature of naval warfare.

THE PRESIDENT: I didn't hear the word you said. Some sort of blockade.

DR. KRANZBUEHLER: "Hunger"--famine. "Hunger blockade."

THE PRESIDENT: Yes.

DR. KRANZBUEHLER: The documents contain the German contraband regulations the British regulations, and two German statements concerning these regulations.

The next group is Doenitz-60, from page 183 to page 191. That concerns the regulations about control ports; that is to say, the British Admiralty removed the control over neutral merchant shipping from the high seas into certain British ports.

This group is relevant in connection with document GB-191 also, because in this document the German Naval Warfare Command is accused of the fact that its war measures against England were taken without consideration of the danger against neutrals. The group which I have mentioned shows that it was not possible for the British Admiralty either to take war measures without endangering the neutrals, because, by the establishment of control forms, the neutrals were forced into German zones of operations and thereby, of course, endangered. This danger was confirmed by the neutrals themselves, and the documents on page 186 to 189 will prove this.

An excerpt from the document of the prosecution belongs in that same group, GB-194, at page 198, which contains a renewed American protest against the control ports.

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The third group goes from Page 192 to 197, also Doenitz 60, and is concerned with the question of an export embargo. This export blockade is based on a British Order in Council of the 27 November 1939 and was expressed against Germany. This measure is essential to determine the question of legal trade because thereby legal export was not possible either.

The export blockade therefore is a basis for the total blockade which was later declared by Germany against England. Since the document G.B. 191 disputes the legality of a total blockade I have two proofs, bases, for this blockade, and also the basis for the export blockade.

The next document objected to is Doenitz 72 on Page 185. It is a note by Great Britain to Belgium of December 1939. In this note the British Government states that it will not tolerate any increase of trade between Belgium and Germany. I use it as a means of proof for the fact that the economic pressure which can be seen from this note was a natural and accepted means of warfare. This question is relevant concerning the document of the Prosecution, G.B. 2 to 4. There on Page 6 under Figure 6 it is stated that Germany necessarily had to exert economic pressure on the neutrals, and these statements represented were submitted by the Prosecution to prove illegal measures.

The next group contains the following documents: Doenitz 60, page 204; Doenitz 72, page 207; Doenitz 60, page 208; Doenitz 60, page 209; and Doenitz 75, page 218. All of these documents concern the development of German zones of operation and treat the zones of operation which have been stated by the opponents. These documents are relevant for the question of th treatment of neutrals. In document G.B. 191 the charge was made against the Naval Warfare Command that without any consideration it had given the order to torpedo neutral ships, and my evidence shall prove that that happened only in such areas as neutrals had been warned against the use, and that this is an accepted and permitted measure of warfare; which can be shown also by the practices of the enemy.

I should like to emphasize two documents which concern the practices of the other side, Doenitz 60, page 208, which concerns the statement by Mr. Churchill of 8 May, 1940, concerning the activities against ships in the

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Skagerrak. This document and the next one, being Doenitz 60, page 209, I wanted to put to a witness. Doenitz 60, page 209, is a French statement concerning a warning of a dangerous area in Sicily. Both documents I am using as evidence for the practical facts of Naval warfare and should like to discuss them with a witness.

It goes without saying that the methods of the

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enemy also have some influence on German practices.

The next group contains documents Doenitz 60, page 219, page 222 and page 224. They deal with the British system of Navicerts. The British navicerts were certificates which all neutral ships had to get from the British Consulate before they could proceed. Ships which refused to use navicerts were confiscated. The navicert system is relevant for two reasons. First, it is mentioned in the German statement concerning the total blockade against England on the 17 August 1940 as one reason for that blockade. Secondly, from the German point of view it is a non-neutral act by the neutrals -- on the part of the neutrals-- if the submitted to that system. This question plays a considerable part in determinir to what extent Germany herself from that time on took consideration of neutrals in the zones of operations.

Finally, the navicert system shows the development of an entirely new naval welfare law, and that is an important subject for me.

The next document is Doenitz 60, page 256. It is a French decree of the 1s November 1939, concerning the creation of an insigna for the crew members of French merchant ships who can be mobilized. This document is relevant for the question of whether the crew of merchant ships at that stage of the war should be considered combatants or noncombatants. The details of the decree seem to me to show that they have to be considered combatants.

As to the following documents, I should like to fix the probative value of the document of the Prosecution 181. These are my documents on page 233 and 234. I have said that these two documents shall dispute the probative value of the document G.B. 191, that is, the report of the British Foreign Office about German naval warfare. In this report on Page 1, Article 72 of the German Prize Regulations is attacked, in which it says that ships can be sunk if they cannot be brought into port. Document G.B. 191 says that this is contrary to traditiona British way of thinking. My document Doenitz 81 shows the sinking of the German freighter "Olinda" by the British cruiser "Ajax" on the first day of the war. It is only one example to show that the statement made the report of the British Foreign Office in incorrect according to which the British fleet had not sunk ships if they could not bring them to port or would not bring them to port.

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DR. KRANZBUEHLER: In the same report of the British Foreign Office, German U-Boats are accused of never making any difference between armed and unarmed merchant ships. Later on I shall submit to the Court the orders concerning armed and unarmed merchant ships, but in my next document, however, I shall only try to clear the U-boats by providing that each case of mistake or error is always considered a case of bad intentions.

In Doenitz 82 I submit a statement by the British Minister of Aviation, from which we can see that it is extremely difficult, if not impossible, in some cases to distinguish between armed merchant ships and unarmed merchant ships.

THE PRESIDENT: You said GB-82?

DR. KRANZBUEHLER: I said GB 191.

THE PRESIDENT: Doenitz 82 is on page 234, is that right?

DR. KRANZBUEHLER: 234, yes, sir.

The next document, Doenitz 85, page 242, contains a statement by the American Secretary of the Navy Knox concerning secrecy about the sinking of German U-boats. For me it is essential in connection with the document of the Prosecution, GB 194. In this document the Naval Warfare Command, Seekriegsleitung, is reproached for the measures which it took to keep secrecy about the sinking of U-boats. That is the fiction of a mine hit. I should like to give this as an example that during war, of course, military measures can be kept secret, but that, in itself, is no proof for or against their legality.

The next document is Doenitz 89, on page 246. It is a list of the Naval War Command of violations of neutrality committed by the United States from September 1939 to September 1941. The document is essential against the document of the Prosecution, GB-195. In GB-195 an order from Adolf Hitler of July 1941 is mentioned in which it is stated that now, also, the merchant ships of the United States must be treated within the German zone of blockade in the same manner as all other neutral ships; that is to say, they should be sunk.

The Prosecution has interpreted this order as proof for a cynical and opportunistic handling of U-boat warfare by Grand Admiral Doenitz. I wish to show by submitting this list that from the German point of view, it can be understood and is quite justificable if in the summer of 1941 one did not grant the United

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States a better position than any other neutral.

Now I come to the subject of the treatment of shipwrecked survivors. The document Doenitz 9 --

THE PRESIDENT: The treatment of what? You said you came to the treatment of something or other.

DR. KRANZBUEHLER: The treatment of shipwrecked survivors.

These documents are in volume one of the document book. The first documen Doenitz 9, on page 11 offers a description of exaggerated measures to save survivors taken by German U-boats from September-October 1939. This is essentia

THE PRESIDENT: There must surely be a group of these, is there not? Have you not a number of document which deal with shipwrecks?

DR. KRANZBUEHLER: The group, Mr. President? I did not understand the question.

THE PRESIDENT: Are there not a number of these documents which fall into a group concerned with the subject of the treatment of shipwrecks?

DR. KRANZBUEHLER: Yes, there are a number of documents.

THE PRESIDENT: Can you not deal with them all together?

DR. KRANZBUEHLER: Yes, Mr. President, I can summarise. They are documents Doenitz 12, on page 18, and Doenitz 13 on pages 19 to 26, and page 49, and Doenitz 19 on page 34.

All these documents are related to document GB 196 of the Prosecution. That is an order from the winter of 1939-1940 in which the rescue measures of U-boats are limited. Sir David objected to that group that it was not important if after this order of the winter 1939-1940, rescues were still carried out. I cannot share this opinion. If the Prosecution accuses Admiral Doenitz of having given an order about the limitation of rescue measures in the winter of 1939-1940, then it is essential to point out for what reasons such an order was issued and what practical consequences it had in fact, and it is my assertion that that order can be traced, first, to the fighting conditions of the U-boats along the British coasts and, secondly, to exaggerated measures of rescue of the commanders. The order did not prohibit measures of rescue generally, and that will be shown by the statements made by the commanders, which I have submitted under Doenitz 13.

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THE PRESIDENT: It is possible for you to give us a page where we can find these GB documents? For instance, GB 196.

DR. KRANZBUEHLER: Yes. It is in the British document book on page 33. In the document book of the Prosecution.

THE PRESIDENT: GB-195?

DR. KRANZBUEHLER: Page 32, Mr. President.

THE PRESIDENT: Thank you.

DR. KRANZBUEHLER: I should like to state my position on a formal objection. Some of these statements are not sworn statements, and I refer to Article 19 of the Charter, according to which the Tribunal is to use all matters of evidence which have probitive value. I believe that a written report by an officer about his activity as the commanding officer has probitive value, even if it is not sworn to. A report of this kind before a German Naval Court would certainly be accepted in evidence.

The last document in this group, Doenitz 19, page 34, concerns the document of the Prosecution GB-199.

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It is a radio message on page 36 of the British Document Book of the Prosecution. It is a radio message from the U-boat of Kapitanleutnant Schacht received from Admiral Doenitz, and deals with the rescue or non-rescue of Englishmen and Italians.

Document Doenitz 19 is a war diary of that U-boat and shows first the armament and crew of the Laconia, which is the one in question, and then it explains why of the numerous Italians compared to the few and less numerous Englishmen, so few compared to the many had been rescued.

The events were know to Admiral Doenitz from radio messages.

THE PR SIDENTL As I told you, the Tribunal has read all of these documents and examined them, and therefore it isn't necessary for you to go into them as a small group, and it isn't necessary for you to go into each group, if you will indicate the nature of the group.

DR. KRANZBUEHLER: Then I should like to mention the Documents, Doenitz 29 on pages 54 to 59 of my Document Book; Doenitz 61, page 54; Doenitz 32 on page 55; Doenitz 33 on page 66; Doenitz 37 on page 78; Doenitz 38 on page 88 and Doenitz 40 on page 86.

These documents are also concerned with the subject of ship wrecks. Doenitz 29 is concerned with a statement of the witness Heisig. The prosecution has stated that I could not bring in anything concerning the character of the witness Heisig because I had not made any objection during the cross-examination of the witness Heisig, and, therefore, I wish to state that in my opinion I have attacked the credibility of Heisig during the cross examination as much as that was possible at the moment. Of the existance of that witness I knew only three days before he appeared here.

THE PRESIDENT: You are now proceeding to deal with each document. You have given us quite a number of documents of that group, and since we have already seen those documents, therefore, we consider them as a group. We do not need to have these details about the question of the credibility of Heisig, which is already before us.

DR. KRANSBUEHLER: I believe it is very difficult to state the relevancy of documents if I am not permitted to say what the connection is. For instance,

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the next three documents, Doenitz 31, 32 and 33, are related to GB-200. That is an order by the flag officer of the U-boats dealing with the so-called rescue ships, and the Tribunal will recall that the Prosecution has stated it did not object to the order as such with reference to the sinking of rescue ships but they objected to the tendency that by the sinking of rescue ships also the ship crews would be killed, and my documents pertain to this issue, which shows that this means they applied moral measures which do not exist during war time, and that he was assured that the sea emergency planes would be shot down, and quite rightly so, by the German planes and air force, because there was no agreement which prohibited that.

The British Air Force, therefore, was not kept from doing so by moral consideration, since the International Law does not prohibit it, and we have the same point of view concerning the rescue ships.

In the case of the sinking of the st eamer Steuben, I should like to correct an error. That is Document Doenitz 33. It does not deal, as Sir David mentioned yesterday, with the sinking of a Ship by Russian U-boats, but it is the sinking of a German Transport which carried injured. This sinking was quite in order, therefore, and I would like to show with this document that the Naval Warfare Command did not for a moment object to it.

I believe, Mr. President, that I should like to show from the above documents, Doenitz 37, 38 and 40, because also these documents have been objected to by the Prosecution, because they explain the measures taken by the Allies.

THE PRESIDENT: As I have told you more than once, the Tribunal does not wish to hear from you on each individual document. We have already considered the documents and we want to deal with them in a group. You have already given us the documents in a group and have indicated to what subject they relate.

DR. KRANZBUEHLER: Mr. President, may I at least mention the document of the Prosecution to which my documents refer? Document 37 is a Document of the Prosecution D 638 (December, 1938). That is the statement by Great Admiral Doenitz concerning the case of the Athenia. At the end of that statement a question of the punishment of the U-boat Commander is mentioned and the Prosecution apparently accuses Admiral Doenitz that he had not punished the Commander in a different way. I want to prove only that a Commander-in-Chief has to tolerate certain measures during war time even if they were not quite correct or partly not correct.

Doenitz 38 is in connection with Document Doenitz 39, which has not been objected to by the Prosecution. It brings out only one detail from the Document 39. That is the attitude of the Naval Warfare Command to alleged reports about the Allies firing on ship wrecks, and Doenitz 38 is the only proof that the very careful attitude of the Naval Warfare Command was not based on lack of proof, but they did not have affidavits, and in spite of that rejected any thought of reprisals.

Doenitz 40 is in connection with the Document Doenitz 42 as submitted and against which no objection has been raised. In this document the question is raised as to whether a ship wreck could be shot at or not, and I should like to show that such considerations are considered inhumane and impossible, but that during war such conditions are examined and according to military necessity in certain cases have to be answered in the affirmative.

The next two documents, Goering 7, on page 89, and C 21, on page 91, deal with the document of the Prosecution GB-205. That was a radio message concerning the sinking of an Allied Sailing Ship.

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G.B. 205 is on page 53 of the Document Book. The Prosecution in connection with this document has raised the accusation against our Naval Warfare Command that it tried to terrorize the crews of neutral ships. Both documents submitted by me give only a few examples to the effect that that terrorizing is nothing illegal but that each belligerant, of course, considered the psychological effect of military measures.

The next group is Document Doenitz 43, on page 95; Doenitz 92, on page 258, and Doenitz 67, on page 96. They all deal with the subject as to whether a ship is obliged to carry out rescues if this would endanger the ship itself, and that relates to the document of the Prosecution, GB-196, on page 33 of the Document Book of the Prosecution, and GB-199 on page 36 of the Document Book of the Prosecution. They show first the methods --

THE PRESIDENT: You have told us the subject they relate to. That is to say, they relate to the subject whether or not a ship is obliged to rescue if it would be endangered thereby, and that, you say, is an answer to No. 196 and 199. Why should you tell us anything more than that?

DR. KRANZBUEHLER: If that is sufficient, then I shall proceed.

The last document in this group is Doenitz 530, page 99. It is a statement signed by some U-Boat Commanders from a prisoner-of-war camp, and it deals with the fact they they never received an order for the destruction of shipwreck. The Prosecution objected to it because it was considered too general and it wasn't sworn to. I believe that it is very concrete and contains very concrete statements concerning the alleged destruction order. Furthermore, it is an official report by the German Commanders who were prisoners of war, to the Commander of the Camp, and I received it through the British Ministry of War. I should ask the Tribunal especially to approve of this document, because it has a high probative value and moral value for myself and for my client.

The last group of the documents objected to falls under the subject heading of "Conspiracy". It is in the Document Book, Volume 2, Doenitz 47, and relates to Document GB-212. Doenitz 47 is on page 120. The corresponding document of the Prosecution is GB-212, on page 75; it deals

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with an incident, namely, that Admiral Doenitz approved that a traitor should be removed in the prisoner-of-war camp. Doenitz 47 will show that the removal of traitors is a necessary measure which during the war is approved by all governments.

Doenitz 48 deals with the subject of treatment of prisoners of war. It is related to the document of the Prosecution, GB-209.

Doenitz 49 is on page 122 in my Document Book, and GB-209 is on page 68 of the Document Book of the Prosecution. In connection with GB-209, the possibility of leaving the Geneva Convention is treated. Doenitz was accused of wanting, without any consideration, to risk the lives and safety of thousands of American and British prisoners. In my opinion, it is not sufficient to simply dispute a statement like that which is made by the Prosecution, but I must be allowed to prove that those prisoners of war for whom Admiral Doenitz himself was responsible were not only treated according to international law but even better; and as it can be seen from a British confirmation, which is among my documents, with fairness and consideration.

The next document, Doenitz 49, deals with the treatment of natives. It is on page 130. It is relevant to the documents of the Prosecution, GB-210, Prosecution Book page 69, and GB-211, Document Book of the Prosecution, page 72. With these two documents it is attempted to put Admiral Doenitz in connection with the conspiracy for the committing of crimes against the natives of the Occupied Territories. Here again, I would like to show that in that sector for which he personally was responsible he did everything necessary to protect the inhabitants of the Occupied Territories. Therefore, I have submitted the document concerning the sentences which have been imposed by the courts, the native courts, for the protection of the inhabitants, which have been confirmed even in the case of death sentences against German soldiers by Admiral Doenitz. Here also the Prosecution state that that document was very general, but it has an appendix with about 80 individual examples. I have not included these examples, in order to save the translators extra work, but if the Tribunal considers it essential I will certainly have that appendix translated.

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The last group contains Doenitz 51, on page 134; Doenitz 52, on page 135. They are in connection with the Document of the Prosecution, GB-188, on page 10 of the British

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Document Book. That is a speech made by Admiral Doenitz on the occasion of Adolf Hitler's death. In connection with that document and another, the Prosecution has accused him of being a fanatical Nazi, and as such had prolonged the war at the expense of the men, women and children of Germany. The documents of the Prosecution proper, however, show that he considered a delay of capitulation in order to make it possible for people to get from the East to the West and thereby in safety.

The Documents, Doenitz 51 and 52, will prove that in fact many hundreds of thousands -- if not millions -- of German people during these last weeks of the war were brought to safety --

THE PRESIDENT: We shall see that from the documents presumably.

DR. KRANZBUEHLER: Please?

THE PRESIDENT: That is part of the details in the documents, isn't it?

DR. KRANZBUEHLER: Yes. So I don't have to say anything further about it. These are all the documents.

THE PRESIDENT: Dr. Kranzbuehler, the Tribunal are inclined to think that it would save time after the Tribunal has ruled on these documents, if you called the Defendant Doenitz first. Would you be willing to do that?

DR. KRANZBUEHLER: Mr. President, I was not prepared for it, but of course I can do it.

THE PRESIDENT: Well, the object of it is to try and save time, and the Tribunal thinks that in the course of the examination of the defendant a considerable number of these documents might possibly be dealt with in the course of direct -- and cross-examination.

DR. KRANZBUEHLER: Yes, Mr. President. The difficulty however, is that during the examination of Admiral Doenitz I should like to count on the knowledge of the contents of the documents, and I should like to discuss some documents with him. I don't know whether the Tribunal will approve these documents now or not.

THE PRESIDENT. But what I am suggesting was that the Tribunal should consider now the relevance of these documents, the admissibility of the documents, and then tell you -- make a rule -- as to what documents are admitted.

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You will then know what documents are admitted. Or you can call Admiral Doenitz and of course examine him with reference to the documents which are admitted, and as I have told you, the Tribunal have already looked at these documents. They will now reconsider them, in order to see whether they are admissible, and in that way, to a large extent, fully acquainted with the documents.

DR. KRANZBUEHLER: Yes, I agree to that, Mr. President. I agree to call Admiral Doenitz if the Tribunal wants it so.

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THE PRESIDENT: Very well. Dr. Kranzbuehler, you have been dealing with a document, Doenitz 60, which contains a great number of pages to which you wish to refer. When we have ruled on them you will have to give separate exhibit numbers to each one of the documents -- to each one of the pages which we will rule are admissible and which you wish to offer in evidence.

DR. KRANZBUEHLER: Yes. Mr. President, may I point out that this is one book, Doenitz 60 is one book, one volume, and that is why I have given it one exhibit number, because I admit it is one.

THE PRESIDENT: Yes, but it contains so many pages that it will be more convenient, will it not, to give each page a separate exhibit number?

DR. KRANZBUEHLER: Yes.

THE PRESIDENT: It seems to relate to a great variety of subjects.

DR. KRANZBUEHLER: Yes, a collection of documents.

THE PRESIDENT: Now as you dealt with the various subjects in entirely different order than the way in which Sir David Fyfe dealt with them, I think it would be convenient if we heard anything he wants to say about it. Only if you do wish to say something, Sir David.

SIR DAVID FYFE: Certainly, My Lord. My Lord, I have heard the Tribunal say that they have had an opportunity of examining the documents and therefore I propose to be extremely brief in any remarks I have to make, and may I make one explanation before I deal with the very few points.

My friend, Colonel Pokrowsky, wanted to make it clear -- as I think it was clear to the Tribunal yesterday -- that there had been no objection to Documents 3 and 4 because in their they deal with a secret base in the north which is only of importance for the attacks against wood imports from the north Russian ports. The objectionable matter, as I think the Tribunal pointed out, was introduced in a statement of Dr. Kranzbuehler which has no foundation in the documents. Colonel Pokrowsky was very anxious that I should make that clear on behalf of the prosecution.

My Lord, I think there are really only two points which I need emphasize in reply to the Tribunal. The first is on my Group 3, the

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details of the contraband control system. My Lord, I submit that on this there is an essential no sequita in Dr. Kranzbuehler's argument. He says that, first of all, the carrying of contraband by merchant ships, to carry his argument to its logical conclusion, would entitle a belligerent to sinking at sight. That, I submit, with great respect to him, is completely wrong, and it doesn't follow that because you establish certain rules and lists of contraband that the right to sink at sight is effected at all.

Similarly, his second point with regard to the British navicest system. That system was used in World War I and is a well known system. But again, the essential non sequita or absence of connection is this, that if a neutral goes to one of the control ports and gets a navicest that does not put that neutral into so un-neutral an act as to make it the equivalent of a ship of war, which is the position that my friend -- that Dr. Kranzbuehler would have to take if that argument were to succeed.

His third (division)?? wishes to put in documents showing economic pressures on, for example, Belgium, with regard to the import of goods. The naval defendant are not being charged with economic pressure; they are charged with killing people on the high seas. Now again, I have dealt with it very shortly, and the prosecution does submit and take the view very strongly that the whole of that documentary evidence is several steps removed from the issues in the case.

Now, the second group of matters which I wanted to refer to, I can take as an example the document making several score of allegations of un-neutral acts against the United States. The case for the Prosecution on sinking at sight is that sinking at sight against various groups of neutrals was adopted as a purely political matter, according to the advantage or, when it was abstained from the disadvantage which Germany might get from her relations with these neutrals. And it doesn't help in answering that allegation of the prosecution. That is a matter of fact which can be judged as to whether the prosecution are right. It doesn't help on that to say that the United States committed such non-neutral acts. If anything, it would be supporting the contention of the prosecution that sinking on sight was applied arbirarily according to

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the political advantages which could be obtained from it.

And the only other point -- again my friend, Colonel Pokrowsky, wishes me to emphasize it -- is that these, the Collection of unsworn statements, are of course in a very different position from any legal standard, from reports made by officers in the course of their duty. These are admissible in all military courts, probably in every country in the world. These are an ad hoc collection. They are not only unsworn but they are vague, indefinite, and insufficiently related to the order which is adhered to in the case of the prosecution.

My Lord, I have tried to cut it very short, but I did want the Tribunal to appreciate that on all these groups and especially, if I may say so, on Groups 3 and 4. The prosecution feels very strongly on this matter in the case. I am grateful to the Tribunal for giving me the opportunity of saying this.

THE PRESIDENT: The Tribunal will adjourn.

(A recess was taken until 1400 hours.)

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Official transcript of the International Military Tribunal in the Matter of The United States of America, the French Republic, the United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany, on 8 May 1946, 1440 to 1645 hours, Lord Justice Lawrence presiding.

(The Tribunal convened for the afternoon session at 1440 hours.)

THE MARSHAL OF THE COURT: If it please the Tribunal, the Defendant Streicher is absent from this session.

THE PRESIDENT: I will deal with the documents in the order in which they were dealt with by Fleet Judge Kranzbuehler.

The Tribunal rejects Doenitz 5, page 7 of the Document Book.

The Tribunal rejects Doenitz 60, page 152.

The Tribunal allows Doenitz 59, page 170.

The Tribunal rejects Doenitz 60, pages 173 to 197.

The Tribunal rejects Doenitz 72, page 185.

The Tribunal rejects Doenitz 60, page 204.

It rejects Doenitz 74, page 207.

It allows Doenitz 60, page 208.

It rejects Doenitz 60, page 209.

It rejects Doenitz 75, page 218.

It rejects Doenitz 60, page 219 page 222 and page 224.

It allows Doenitz 60, page 256.

It rejects Doenitz 81, pages 233, 234; 234 being Doenitz

It rejects Doenitz 85, page 242.

It rejects Doenitz 89, page 246.

It allows Doenitz 9, page 11, and Doenitz 10, page 12.

It rejects Doenitz 12, page 18.

It allows Doenitz 13, pages 19 to 26, and page 49.

It allows Doenitz 19, page 34.

It allows Doenitz 29, pages 54 to 59, leaving out -- that is to say, not allowing -- page 58.

It rejects Doenitz 31, page 64.

It rejects Doenitz 32, page 65.

It rejects Doenitz 33, page 66.

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It allows Doenitz 37, page 78.

It rejects Doenitz 38, page 80.

It rejects Doenitz 40, page 86.

It rejects Goering No. 7, page 89.

With reference to the next exhibit, page 91, the Tribunal would like to know from Fleet Judge Kranzbuehler whether that is already in evidence or not. It is page 91 in the Doenitz Document Book in English, volume 2, page 91. It is headed "C-21, GB-194."

DR. KRANZBUEHLER: That is an excerpt from a document which the Prosecution has submitted here and which is therefore already in evidence.

THE PRESIDENT: Very well, then; we need not be troubled about it.

The Tribunal rejects Doenitz 43, page 95.

It allows Doenitz 90, page 258.

It allows Doenitz 67, page 96.

It allows Doenitz 53, page 99.

It rejects Doenitz 47, page 120.

It allows Doenitz 48, page 122.

It rejects Doenitz 49, page 131.

It rejects Doenitz 51 and 52, pages 134 and 135.

That is all.

The Tribunal will adjourn today at a quarter to five and it will be sitting in closed session thereafter.

DR. KRANZBUEHLER: With the permission of the Tribunal, I call Grand Admiral Doenitz as witness.

(The Defendant Doenitz came to the witness-box.)

BY THE PRESIDENT:

Q Will you state your full name?

A Karl Doenitz.

Q Will you repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

You may sit down.

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DIRECT EXAMINATION

BY DR. KRANZBUEHLER:

Q Great Admiral, since 1910 you have been a professional officer, is that correct?

A Since 1910 I am professional soldier and officer since 1913.

Q Yes. During the first World War you were with the U-boats?

A Yes, from 1916.

Q Until the end?

A Until the end of the war.

Q After the first World War, when did you again come in touch with the U-boats?

A On the 27th of September, 1935 I became the chief of the U-boat Flotilla Weddingen, the first U-boat flotilla after 1918 in Germany. As, chief, the beginning of that command, some days before, two days before, I was in Turkey in order to go on a U-boat, and fill in the gap since 1918.

Q That is to say that from 1918 to 1935 you had nothing to do with U-boats?

A No, nothing.

Q What was your rank when you came to the U-boats in 1935?

A I was Fregattenkapitaen.

Q What did the U-boat weapon at that time in Germany consist of?

A The U-boat Flotilla Weddingen of which I became the chief consisted of three small boats of 250 ton each, so-called Einbaume. Besides, there were six somewhat smaller boats which were in a U-boat shcool which was not subordinate to me for the purpose of training. Then there were in the service another six of these small U-boats.

Q Who announced to you that you fot that command, Great Admiral?

A Great Admiral Raeder.

Q Did Great Admiral Raeder on that occasion issue the order that the U-boat weapons should be prepared for war?

A No. I only received the order, the mission to train the U-boats for sailing, submersion and firing.

Q Did you prepare the U-boats for war against merchantmen?

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A I instructed the commanders how they should behave if they stopped a merchantman and I also issued, accordingly, tactical orders for each individual commander.

Q Do you mean to say that the preparation for war against merchantmen wa s a preparation concerning prize regulations?

A Yes.

Q That is to say, the preparations were concerned with the stopping of ships, surface ships?

A The only instruction which I gave concerning the war against merchant men was an instruction, how does the U-boat, submarine, behave in case of stopping and examining of the destination and so on of a merchantman. Later, I believe in the year 1938, when the draught of the German prize regulations came, I passed them on to the flotillas for the instruction of the commanders.

Q You developed a new tactic for U-boats which became known under the name "Wolf pack tactics" or "pack tactics." What were these pack tactics about and did that mean anything in connection with the warfare against merchantmen and the prize regulations?

A The U-boats of all navys so far had operated singly, contrary to all other categories of ships, which by tactical maneuvers, collective maneuvers, try to get better results. The development of wolf pack tactics was nothing further than to break with that principle of individual action of U-boats and the attempt to use U-boats in the same manner as all other categories of warships, collectively. Such a method of collective action was naturally necessary when a group was to be attacked, be it a group of warships -- that is several warships together, or be it a convoy or convoy escort. These wolf pack tactics, therefore, had nothing to do with war against merchantmen according to prize regulations; that is a tactical measure to fight groups; Of course, also convoys where measures, according to prize regulations, can not be applied.

Q Where you given the mission to prepare for war to fight a definite enemy?

A I did not receive such a general mission. I had the mission to develop U-boat weapons as well as I could, such as it is the duty of each front line officer of all armed forces of all nations to be able to be prepared against

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all emergencies. Once in the year 1937 or 1938, in the mobilization plan of the Navy, I received the order for me that in case France should try to interrupt the rearmament by an attack on Germany it would be the task of the German U-boats to attack in the Mediterranean the transports which would go from North Africa to France.

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Then I ordered a maneuver according to that in the North Sea. That was the only mission, if you ask me about a certain purpose, which I received from the Naval Warfare Command in that regard, and that occurred in the year '36 or '37. To my recollection, that plan had been issued over the concern that the rearmament of Germany, at that time unarmed, could be interrupted by some measures.

Q In the year 1939 was the German U-boat weapon prepared technically and tactically for naval warfare against England?

A No. The German submarine weapons, in the fall of 1939, consisted of about thirty to forty main boats. That means that at all times about one-third could be used in the front lines, and in reality that looked much worse later. There was one month, for instance, when only two boats were on the sea. With that small number of submarines it was, of course, only possible to pinch a large sea power such as England that we in the navy were not prepared for a war against England.

It can most clearly be seen from the fact that the armament of the navy at the beginning of the year had to be changed most radically. It had been the intention to create a homogeneous fleet which, of course, since it was in proportion much smaller than the British, would not be capable for war against England. That building program of this fleet, then when war had started with England, had to be discontinued of the capital ships; only those ships were finished which were close to completion. Everything elsd was dropped, and that was necessary in order to free the building capacity to start building submarines. And that, also, explains why the German submarine warfare in this last war really has started in the year 1942; that is to say, when those submarines for which the order has been given for building at the beginning of the war and had become ready for action. From previous years, that is 1940, the replacement of U-boats hardly covered the losses.

Q The Prosecution has repeatedly termed the U-boats as an aggressive weapon. What do you say to it?

A Yes, that is correct. Submarines have the mission to approach an enemy and to attack him by torpedoes, and, in that respect, the U-boat is

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an aggressive weapon.

Q Do you mean to say by that that it is the main weapon intended for an aggressive war?

A Aggressive or defensive war is a political decision and, therefore, it has nothing to do with military considerations. I can certainly use a submarine in a defensive war because, also in defensive warfare, vessels of the enemy have to be attacked. Of course, I can use the U-boats just the same in a political way as an aggressive war. If one should conclude that the navies which have submarines are planning aggressive war, then all nations and all navies of these nations have to be considered and they, more than Germany, twice as much or three times as much, could be accused of planning aggressive war.

Q In your capacity as commander of the U-boats, did you, yourself, have anything to do with the planning of warfare as such?

A No, nothing, nothing at all. My tasks were in the front lines to train U-boats, militarily and tactically, and to train my troops, to educate my troops and my officers.

Q Before the beginning of this war did you give any suggestions or make any proposals concerning the war against a definite enemy?

A No, under no circumstances.

Q Did you do it after the war had already started concerning a new enemy?

A No.

Q The Prosecution has submitted several documents which contain orders from you to the U-boats before the beginning of this war; an order for the installation of certain U-boats in the Baltic and an order before the Norway action for the installation of U-boats along the Norwegian coast. I ask you, therefore, when, at what time, were you as Flag Officer of U-boats informed about the then existing plans?

A I received information from the Naval Warfare Command about the plans only after these plans had been completed; that is to say, only if I was expected to participate in the carrying out of these plans with a special task; and that only at that time when it was necessary to make possible the

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carrying out of my military tasks.

Q Let us take the case of the Norway action. When did you find out about the intention of the occupation of Norway and in what connection did you receive that information?

A On the 5th of March , 1940, I was called from Wilhelmshaven, where I had my command, to Berlin, to the Naval Warfare Command, and on the occasion of that meeting I was instructed about the intention and my particular task.

Q I put to you an entry from the war diary of the Naval Warfare Command, which I submit to the Tribunal as Doenitz Exhibit No. 6. It is on page 8 of the first document book.

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"The Commander of U-boats participates in a conference with the Chief of Staff of the naval command in Berlin.

"Contents of the conference:

"Preparation of the occupation of Norway and Denmark by the German Wehrmacht."

Is that the meeting which you have mentioned?

A Yes.

Q In the case of Norway or in the previous case, that of the outbreak of the war against Poland, did you have the opportunity to examine what tactical instructions, which you had to give to your U-boats, to your submarines, led to an aggressive war or had to lead to aggressive war?

A No, I had neither the possibility nor the authority to do that. I should like to ask what soldier of whatever nation, who has just received a military task, would have the right to approach his government and ask for examination or justification as to whether from his task an aggressive war could evolve. That would mean, wouldn't it, that---

THE PRESIDENT: The Tribunal has itself to decide from a matter of law whether the war was an aggressive war. It does not want to hear from this witness, who is a professional sailor, what his view is on the question of law.

DR. KRANZBUEHLER: Mr. President, I believe my question has been misunderstood. I did not ask Admiral Doenitz whether he considered the warfare as an aggressive war or not; but I asked him whether he had the possibility or the task as a soldier to examine, to check whether his orders could become means for an aggressive war. He, therefore, should state his opinion or his attitude about the task which he had as a sailor, and not the question of an aggressive war or not.

THE PRESIDENT: He is able to tell us what his task was as a matter of fact, but he is not here to argue the case to us. He can state the facts as to what he did.

DR. KRANZBUEHLER: Does one have to give a defendant the right to say what deliberations he had on which, especially here, are based the accusations of the Prosecution? The defendant should have the

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possibility to state his position according to these accusations.

THE PRESIDENT: We do not want to hear his comments. You will argue his case on his behalf on the evidence he gives. He is not here to argue the law before us. That is not part of the evidence.

DR. KRANZBUEHLER: Then I shall just ask him about his considerations.

BY DR. KRANZBUEHLER:

Q Admiral Doenitz, the orders which you issued before the war to the submarines or the orders which you issued before the beginning of the Norway action -- did you ever consider whether that would lead to aggressive war?

A As a soldier I received the military order and, of course, I had the thought uppermost in my mind to carry out that military task. Whether the leadership of the state politically made an aggressive war by doing so or whether or not they were profylactic measures was not up to me to decide; I had nothing to do with that.

Q As Flag Officer for Submarines, from whom did you receive your orders about U-Boat warfare?

A From the Chief of the SKL, the Naval War Command.

Q Who was that?

A Great Admiral Raeder.

Q What were the orders which you received at the beginning of the war, that is, the beginning of September 1939, for the conduct of submarine warfare?

A War against merchantmen according to the Prize Regulations, that is to say, according to the London arrangement.

Q What ships, according to that order, could you attack without previous warning?

A At that time I could attack without warning all ships which were guarded either by naval vessels or planes. Furthermore, I was permitted to fire at any ship which, after the attempt to stop here sent radio messages or did not obey the order to stop.

Q Now, without any doubt, a few weeks after the beginning of the war, the war against merchantmen became more severe. Did you know whether that was planned, and if you do, why it was planned?

A I knew that the Naval Warfare Command intended, according to the development of the attitude of the enemy, to retaliate blow by blow, as it was said in the order, by more severe actions.

Q What were the measures taken by the enemy and what were your own experiences with the measures taken by the enemy which led to more severe measures?

A Right at the beginning of the war we had the experience that all merchantmen not only took advantage of their radio installations at the first attempt to stop them, but that they immediately sent messages as soon as they could see a submarine on the horizon.

It was absolutely clear, therefore, that all merchantmen were cooperating in the military intelligence service. Furthermore, practically a few days after the beginning of the war, we had the experience that merchantmen were armed and used their arms.

Q To what orders on the part of Germany did these experiences lead?

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A They led first to the order that merchantmen which used their radio equipment, which sent radio messages, on the occasion of being stopped, could be attacked without warning. They led also to the order that merchantmen whose armament had been recognized beyond doubt, that is to say, whose armament one knew by British publications, could be attacked without warning.

Q This order concerning attacks on armed merchantmen was issued on 4 October 1939, is that right?

A I believe so.

Q Soon after that, was there a second order, according to which all enemy merchantmen could be attacked, and why did that order come about?

A I believe that the Naval Warfare Command decided about this order on the basis of a British publication which said that now the merchantmen had all been armed. In addition, there was a broadcast by the British Admiralty on the 1st of October that the merchantmen had been directed to attack German U-boats. Furthermore, as I have said before, it was clear beyond doubt that each merchantman was part of the intelligence service of the enemy, and that these radio messages at sight of a submarine were essential for the use of surface or aerial forces.

Q Did you have reports about that from U-boats, according to which, because of this attitude of enemy merchantmen, submarines were put in danger and were attacked by surface or aerial forces?

A Yes. I had received quite a number of reports in this connection, and since the German measures were always taken about four weeks after these facts had been recognized, I had very serious losses in the meantime, during the period when I had to keep myself bound by my one-sided obligations.

Q By those obligations you are referring to the conduct of war against merchantmen according to the Prize Regulations during the period when the ships of the enemy did not abide by them any more?

A Yes.

Q Did you protest later against the Prize Regulations, or did you approve?

A No, I did not protest against them. On the contrary, I considered these regulations correct, because, as I have said before, otherwise I would

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have had to remain bound to an obligation which was one-sided and caused serious losses to me.

Q As to these increasingly severe measures in the war against merchantmen, such as firing on armed merchantmen, and

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then the order to attack all merchantmen, was that a forcible development which had to come?

A. This development, as I have said before, had to come. As soon as merchantmen are armed and make use of their arms, and send messages and thereby immediately call for protection, then they force the submarine to submerge and attack without warning.

That same forcible development, in the areas which we patrolled, was also the case with the British submarines, and in exactly the same manner with American and Russian submarines.

Q. If, on one side, a merchantman sends a message first, and on the other side a submarine, for that reason, attacks without previous warning, which side has the advantage according to your experience, the side of the merchantman or the side of the submarine?

A. In an area where there is no constant patrolling by the enemy, by naval forces of any kind or by planes, that is to say, close to the coast, the submarine ship becomes the bearer of the main weapons against the submarine, and the submarine is therefore compelled to consider that surface ship just like a battleship or naval warship. It is forced to submerge; it loses its speed. Therefore, in all ocean areas, with the exception of the areas right in front of the coast, which can be constantly patrolled, the advantage of arming of merchatmen is on the side of the merchantmen.

Q. Are you of the opinion that the orders of the Naval Warfare Command remained within the framework of that which was necessary against the enemy from a military point of view, or did these orders go beyond military necessity

A. They certainly remained within the scope of that which was necessary. I have explained already that the actions were taken slowly and after careful study may have been for the reason that politically all increasingly severe measures in the West should be avoided.

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Q. Great Admiral, these orders which we have mentioned were based on that time only on German experiences and without thorough knowledge of orders which had been issued on the British side. Now, I should like to put to you these orders, the knowledge of which we have now based a ruling of the Tribunal and I should like to ask you whether these individual orders coincide with your experience, whether there is a difference? I submit the orders of the British Admiralty as Exhibit Doenitz 67. It is on page 168 in document book No. 3.

DR. KRANZBUEHLER: I beg your pardon, Mr. President; the document begins on page 163, not on page 168.

BY DR. KRANZBUEHLER:

Q. As you know, we are confronted with the Handbook of the British Navy of 1938 and I put to you, from page 164, the paragraph about the reports, enemy reports.

A. There is no pagination here.

Q. It is DMS-3155, the paragraph about reports. The heading is "Enemy Reports."

A. Yes.

Q. I read the paragraph to you: "As soon as the captain of a merchant marine boat sights an enemy boat or plane, his first and most important duty is to report via wireless, on the type and position of the enemy. Such a report may, if submitted quickly, perhaps not only save the boat but also many others. This might give a chance -- which perhaps will never return -- to destroy the steamer with one of our battle ships or planes." Then there are some more details which I do not care to read, about the manner in which these reports are to be given. Is this order according to your experience?

A. Yes. In this order, there is not only a directive to send wireless signals. If you are stopped by a U-boat, that alone would, according to international law, justify that the U-boat by force of arms proceed against the ship but beyond that, it is stated that as soon as an enemy boat is in sight that report is to be made.

Q. Yes, Admiral.

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A. Through the purpose ---

Q. So this order is in accord with the experiences which your boats reported?

A. Yes, indeed.

Q. I put to you the paragraph DMS 2 VII, on page 165. That is the paragraph about, for opening fire, prerequisites for opening fire.

"(a) Against hostile actions in accordance with International Law. -- Since armament is intended only for the purpose of self-defense it can only be used against an enemy who is obviously trying to capture or sink the mercha marine vessel. Upon the outbreak of war it must be assumed that the enemy wil act according to international law, and therefore, first must not be opened as long as it is not evident that the enemy is attempting to capture the boat. As sson as it is clear that resistance has to be made in order to avoid capture, fire is to be opened.

"(b) Against actions of the enemy violating International Law. -- If, while the war goes on it should unfortunately be found, that the enemy has gone over to the policy of attacking boats without warning in violation of international law, it will be permissible to open fire against enemy boats, submarines and planes, even if these have not attacked or asked for surrender, if such an action is apt to prevent the enemy from gaining an advantageous position for an attack."

In this order in accord, that is to say, the order "a" and "b", with the experiences made.

A. In practive, between "a" and "b", one cannot find any difference. I should like to emphasize in this connection --- DMS 3 III, page 167, isn't it -- under 4, that is the last paragraph of "b" of that point.

Q. One moment, do you mean "b-V"?

A. It says here ---V---"Ships with defensive armament should open fire..

Q. That is "b-IV."

A. Yes, --"... should open fire to keep the enemy at a distance, if in your opinion, he intends dapture and if he comes near enough to endanger any attempt for flight." That is to say, that means therefore that as soon as the

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ship sights a U-boat, of which he has to assume during war that it isn't there for no reason, but wants to capture, he, for his own defense, will open fire as soon as he comes within range for his guns; that is to say, the submarine, until the submarine has come within range of his guns, the steamer, if he wants to use his guns offensively, cannot act any different.

Q. Grand Admiral, did the armed merchant men act in the manner in which your have described; that is, did they really fire as soon as the submarine came within range?

A. Yes. According to my recollection, the first report came from a U-boat about that on the 6th of September 1939.

Q. With this order, we find a supplement under AMS 1 118, on page 165, and here we read: "With reference to D.M.S. Part 1 article 53, it is now considered a fact that the enemy has gone over to the policy of attacking merchant marine vessels without warning as part of submarine and plane operations. The instructions in the second paragraph (b) of this article are therefore to be considered as being valid." That means that the order which we have read before, "b", now, from the 13th of June 1940, had to be considered valid. Do you mean to say that in fact before that, from the very beginning, one acted according to the order "b"?

A. I have already stated that between an aggressive and defensive use of arms on the part of the steamer captain, the surface ship against a submarine, there is practically no difference at all. This is purely theoretical differentiation but even if one differentiates between them, then beyond doubt -- the right of application -- the report I believe of the 9th of September, which said -- and that was not according to facts --- that we were conducting unlimited submarine warfare. That report was designated to inform the steamer captains that now the case "b" was valid, part "b".

Q. I put to you now a directive about the handling of depth charges on merchant ships. That is on page 168, the reference list, and the date is the 14th of Spetember 1939.

A. What page.

Q. Page 168.

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A. Yes.

Q. I read: "The following instructions have been sent out to all W.P.S.'s. "It has now been decided to provide all merchant ships of 12 knots or greater speed which are armed with protective weapons, with a single depth charge chute with hand release and 3 charges." Then there are some more detail: and at the end, a remark about the instructions, the training of the crews in the use of underwater bombs. The distribution list shows several naval officers. Is this use of depth charges by merchant men according to the experience of your submarines?

A. Yes, repeatedly.

Q. Speaking of a ship of 12 knot speed or more, can one say that a depth charge attack against the U-boat is a defensive measure?

A. No. Each depth charge attack against a submarine is definitely and absolutely an aggressive measure, an offensive measure, for the submarine dives, is harmless underwater and the surface vessel which wants to carry out the depth charge attack, the attack approaches as closely as possible to the position where it assumes the U-boat to be, in order to drop as precisely as possible the depth charge on top of the U-boat. A torpedo boat, that is a warship, does not attack a submarine any different way.

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Q. With this attitude on the part of enemy merchantmen, you want to justify the manner in which you attacked enemy ships. However, neutral ships also have suffered, and the prosecution accuses the command of the German U-boat arm for this. What do you have to say to that?

A. Neutral merchantmen, according to the political orders, the orders of the situation during the sea warfare, were only attacked without warning under such circumstances as when they were found in operation zones which had been definitely designated as such zones; or else, as a matter of course, they were attacked only when they did not act as neutrals should act, but acted like ships which were participating in the war.

Q. The prosecution has offered a document in evidence, according to which, in certain ocean areas, attack without warning against neutrals was authorized, beginning January, 1940.

I am referring to Document G.B. 194. I will read to you the sentence which is held against you.

THE PRESIDENTL What page did you say?

DR. KRANZBUEHLER: Page 30, sir. It is in the British document book of the prosecution, page 30.

BY DR. KRANZBUEHLER:

Q. I will read you the sentence which is held against you:

"In the Bristol Channel, attack against all ships without warning has been authorized, where it is possible to claim that mine hits had taken place."

This order is dated January 1, 1940.

Can you tell me whether at that time neutrals already actually had been warned against using this shipping lane?

A. Germany had advised the neutrals on the 24th of November, 1939. The advice came through a note, and neutrals had been warned in this note against using these lanes. The neutrals had been given the recommendation to use the methods of the United States. These methods were that America had forbidden its ships to enter the waters around England, to avoid any incidents.

Q. I will present to you the note of which you speak, and I will at the same time submit it to the Tribunal as Doenitz Document 73, to be found on

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Page 206 of the Document book. It is in Document Book 4, Page 206.

This is an excerpt from the war diary of the Naval War Command, dated November 24, 1939. It has the following text:

"To the missions, according to enclosed list.

"Telegram.

"Supplement to wire release of 22 October.

"Please inform the government there of the following:

"Since the warning issued, etc, etc, etc.

(Copy in document Doenitz 73, ending with "recommendations and warnings".)

This is the note to which you referred?

A. Yes.

Q. In other words, according to your opinion, these sinkings beginning on 1 January were authorized in the Bristol Channel?

A. Yes; these ocean areas were clearly limited areas in which war actions took place continuously on both sides. The neutrals had been warned expressly against using these areas. If they entered this war area, they had to run the risk of coming into danger of being damaged.

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In other words, it was a military advantage for the nation conducting the war.

Today I am of the opinion that political reasons influenced this decision, in order to avoid complications with neutral countries.

Q How could complications with neutral countries come into being, in your opinion, if this war measure was a legal one?

A During the first World War we had had the experience as to what role propaganda could play. Therefore, I think it might have been possible that our political leaders, for this reason, may have caused them to phrase this order in the manner in which they did.

Q In other words, from your own experience you know nothing about these political reasons?

A No, nothing.

Q Until now you have spoken about the orders which were given to the U-boats, one for the fighting of enemy ships, and another for the purpose of the investigation of neutral ships. Were these orders actually executed? That was your responsibility, was it not?

A No U-boat commander purposely disobeyed an order, nor did he refuse to execute it. Of course, considering the large number of war actions, which ran into several thousands within the five and a half years of war, very few individual cases have occurred in which, by a mistake, an order of this sort was not followed.

Q How could such a mistake occur?

A Every sailor knows how easily mistakes in identification can occur at sea, not only during a war, but also during peace-times. These are caused by weather conditions, and other factors.

Q Is it also possible that submarines fired torpedos at the borders of operational areas, although they were already outside of these limits?

A That is also possible because, for instance, again, as every sailor knows, after a number of days of bad weather, some inaccuracy in the clearing of the position of a boat may occur. This may be caused by the submarine, but also by the steamer in question, the steamer commander possib believing that he was outside of the operational area when he was torpedoed.

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It is very difficult to clarify such cases.

Q What did you, as supreme commander of the submarine arm, cause to have done when you heard of such a case, a case in which a submarine had exceeded its orders, even by a mistake?

A The main thing was the preventive measure, and that was done through education. They were told to be thorough, and to probe quietly and carefully before the commander took action.

This education had been carried through during peace-time. In our U-boat organization we had the motto, "We are a rock-bound firm."

The second measure was that during war-time every commander, before leaving port and after returning from a mission, had to report to me personally. That is, before leaving port he had to be briefed by me.

Q I beg your pardon. That was not at the time when you were still supreme commander, was it?

A That was limited after 1943, after I had become supreme commander. However, even then we did it once in a while. In any case, this was a rule with us during my time as commander of the submarine fleet. Therefore, a mission of a commander was considered completed and satisfactory only then, after he had reported to me in full detail. If, after such a happening, I could find that a neglect had occurred, then I made my decision according to the situation of each case, and I decided whether disciplinary action or a court martial had to take place.

Q In a document of the prosecution I have found a remark -- GB-198, at page 230, in Book 4 -- which I would like to read to you. This is the War Diary of the Commander of the U-boat Forces.

I read the remark of the 25th of September, 1942:

"U-512 reports that Monte Gorbea has been recognized as neutral ship before having been torpedoed. Assumed suspicions for being camouflaged English ship insufficient and do not justify sinking. The Commandant will have to stand court martial for his conduct. All boats at sea will be informed."

Two days later, on 27 September 1942, a radiogram was sent, and I read:

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"Radiogram to all:

"The Commander-in-Chief of the Navy has personally and expressly ordered anew that all U-boat commanders are to comply exactly with the orders concerning the treatments of neutral ships. Violations of these orders will have incalculable political consequences.

"This order is to be disseminated at once to all commanders."

Will you please tell me what resulted from the court martial which you ordered in this document?

A I had sent a radiogram to the Commander stating that after his return he would have to be responsible, before a court martial, because of the sinkings. The Commander did not return from this mission with his boat, and therefore no court martial took place.

Q Did you, in any other case, make any findings as to how the court martials affected the difficult tasks of the U-boat Commanders after you had ordered such a court martial?

A Yes. I remember one case against Captain-Lieutenant Kraemer, who had to be acquitted by the court martial because it was proven that, before firing the shot, it was known to be a breaker of the German blockade. He had read once more the warning of the ship and, in spite of that, was of the opinion that it was a different ship, an enemy ship, and that he, therefore, was authorized to sink it. In other words, it was not a case of neglect, and therefore he was acquitted.

Q Taking all your measures together to teach and punish personnel, do you have the impression today that everything was done to cause the U-boat commanders to follow your orders explicitly, or did the U-boat commanders not follow you in keeping your orders?

A I don't think it is necessary to discuss this question; the sober facts speak for themselves.

During the five and a half years, several thousand war actions were caused by submarines. The number of incidents is extremely low, and I know that this result can be traced to the unique leadership of all submarine commanders, coming from one office, and also to their proper training and their responsibility.

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Doenitz 73

Excerpt from the war diary of the Naval War Command 1939 (KTB Skl, Part C, Issue VIII, 1939)

Supplement 83

Berlin, 24 November 1939

To the missions, according to enclosed list.

Telegram.

Supplement to wire release of 22 October.

Please inform the government there of the following:

Since the warning issued on (date to be inserted here) regarding the use of English and French ships, the following two new facts are to be recorded:

a) The United States has forbidden its ships to sail in a definitely defined area.

b) Numerous enemy merchant ships have been armed. It is known that these armed ships have instructions to use their weapons aggressively and to ram U-boats.

These two new facts give the Reich Cabinet occasion to renew and emphasize its warning, that in view of the increasingly frequent engagements, waged with all means of modern war technique, in waters around the British Isles and in the vicinity of the French coast, the safety of neutral ships in this area cou no longer be taken for granted.

Therefore the German Government urgently recommends the choice of the route south and east of the German-proclaimed danger zone, when crossing the North S

In order to maintain peaceful ship traffic of the neutral states and in order to avoid losses of life and property for the neutrals, the German Cabinet furthermore feels obliged to recommend urgently legislative measures following the pattern of the U.S. Government, which in apprehension of the dangers of modern naval warfare forbade its ships to sail in an exactly defined area, in wh which according to the words of the President of the United States the traffic of American ships may seem imperiled by belligerent action.

The Reich Cabinet must point out that it rejects any responsibility for consequences brought about by disregarding recommendations and warnings.

Incidentally, England in her own operational areas has acted similarly.

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Q Since you considered these sinkings legal, why was the order given to try to attack without being sighted, and to act as though mine hits had taken place. Doesn't that indicate a bad conscience?

A No. During a war, there are no basic obligations to inform the enemy by what means one intends to do his fighting. In other words, this is not a question of legality, but a question of military or political usefulness.

England in her own operational areas did not inform us as to the means of fighting she intended to employ or did employ; and I know how many headaches this caused me when I was supreme commander of the navy in order to employ the small means we had in the most economical manner.

At that time, when I was commander of the U-Boat fleet, I was ordered to act as if mine hits had taken place. I considered this as military useful, because Intelligence had been in doubt whether mine sweepers or U-Boat defense means should be employed.

THE PRESIDENT: If the defendant is speaking so slowly because of the interpreter, I think he can go a little bit faster.

BY DR. KRANZBUEHLER:

Q The Prosecution has offered a document, G. B. 195 on page 32 of the Prosecution's document book. In this document there is an entry of the Order of the Fuehrer from the 18-7-1941 and it reads as follows:

"In the original operation area which equals the fighting area for the U.S.A. and which is not touched by ourselves, the attack upon boats in American or British escorts which involve U. S. merchantmen is authorized."

Following this order by the Fuehrer the Prosecution calls your attitude cynical and opportunistic. Will you please explain to the Tribunal what the meaning of this order actually is?

A In August 1940 Germany had declared her opation area in English waters. Beginning with the attack without warning within this operation area, or from this attack without warning, American ships expressly were excepted because, as we assumed, the political leadership wanted to avoid any possibility of an incident with the United States of America. I said the political leadership. The Prosecution regarding the treatment and attitude or the different attitude towards the neutrals, the Prosecution has accused me of having a masterful agility in adapting myself which was guided by my alleged cynicism and opportunism. It is obviously clear that my attitude towards neutrals is a purely political affair, and that particularly when one nation is at war this relation has to be decided exclusively by the political leadership.

Q You want to say, in other words, that you had nothing to do with the formation of this question.

A I as a soldier had not the slightest influence upon it, how the political leadership believed they should have to teat this neutral or that neutral. Regarding this particular case, knowing those orders which I received through the Chief of the Naval War Command from the political leadership, I would like to say the following:

I believe that the political leadership has avoided everything to cause any incident on the water with the United States. First, I have already stated that it was forbidden to the submarines to even stop American boats. Second --

Q One second, Mr. Admiral. To stop them where? Within the operation area, or outside the operation area?

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A At first, everywhere. Secondly, that the American 300-mile safety zone was granted by Germany although according to the existing international law only a 3-mile zone was authorized. Third --

THE PRESIDENT: An interesting distinction which may be drawn between the United States and other neutrals is not relevant to this trial, is it? What difference does it make?

DR. KRANZBUEHLER: Following the document which I submitted, G. B. 195, the Prosecution has made the accusation that Admiral Doenitz ran his U-boat campaign cynically and opportunistically; that is, in the matter that he treated one neutral well and the other one badly. This accusation has been made distinctly and I want to give opportunity to Admiral Doenitz to make his explanation to this accusation. He has already said that he had nothing to do with the formulation of this question.

THE PRESIDENT: What more can he say than that?

DR. KRANZBUEHLER: Mr. President, according to the charge, a soldier is about made responsible for the orders which he merely executed. For this reason it is my opinion he must now have a chance to state whether he on his side had the impression he received cynical and opportunistic orders or whether to the contrary he had the impression that everything was done to avoid a conflict and that those orders which were given actually were necessary and legal.

THE PRESIDENT: You have dealt with this order about the United States ships, now.

DR. KRANZBUEHLER: I am almost finished.

BY DR. KRANZBUEHLER:

Q Did you want to say anything more about the third point?

A I wanted to mention two or three more points to this subject.

Q I think that is possible.

(The Tribunal conferred).

THE PRESIDENT: You may go on, but we hope that you will deal, with this point shortly. It appears to be very unimportant to them.

DR. KRANZBUEHLER: Yes, sir.

THE WITNESS: For instance, I had suggested that the port at Halifax or the British port of Nova Scotia, both of which ports are very important for warships and merchantmen, -- I had suggested to lay mine fields around these ports. The Fuehrer rejected this because he wanted to avoid every friction with the United States.

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BY DR. KRANZBUEHLER:

Q May I formulate the question this way, that you, following the orders regarding the treatment of American ships, never had the impression that this was caused by opportunism or cynicism but that everything was done with greatest self-control in order to avoid a conflict with the United States.

A Yes. This went so far when the American destroyers in the summer of 1941 received orders to attack German submarines, that is, before war started when they were still neutral, it was forbidden to me to fight back. I was then forced to order the submarines in this area not to attack British destroyers, in order to avoid that an American might be mistaken by a submarine for an English boat.

THE PRESIDENT: We will adjourn.

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